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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/648,655

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Geno Munari

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QUIRK & TRATOS

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EXAMINER

NEGRON, ISMAEL

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/648,655

Applicant(s)

MUNARI, GENO

Examiner

Ismael Negron

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/25/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Title

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: **Lighting Device with Resilient Fastener for Attaching to Human Finger.**

Abstract

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

2. The abstract of the disclosure is objected to because it refers to the purported merits or speculative applications of the invention and compare the invention with the prior art. Correction is required. See MPEP § 608.01(b).

The Examiner suggests deleting the first and the last two sentences of the Abstract.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “**240**” has been used to designate both “*active surface*” (paragraph 0019, line 9) and “*metallic member*” (paragraph 0024, line 2).

4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 4, 5, 8-10, 12 and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by MAYFARTH (U.S. Pat. 5,632,548).

MAYFARTH discloses an illumination device having:

- **a housing (as recited in claims 1 and 9), Figure 2, reference number 1;**
- **a light source (as recited in claims 1 and 9), Figure 2, reference number 9a;**
- **the light source being located within the housing (as recited in claims 1 and 9), as seen in Figure 2 ;**
- **a power source (as recited in claims 1 and 9), Figure 2, reference number 11;**
- **the power source being located within the housing (as recited in claims 1 and 9), as seen in Figure 2;**
- **means for intermittently activating the light source (as recited in claims 1 and 9), Figure 2, reference number 22;**
- **a resilient fastener (as recited in claims 1 and 9), Figure 2, reference number 1;**

- **the fastener being for removably attaching the housing to a human finger or thumb (as recited in claims 1 and 9), column 5, lines 30-35;**
- **the light source being a light emitting diode (as recited in claims 2 and 10), column 6, lines 32 and 33;**
- **the means for intermittently activating the light source including applying pressure to a button exposed near a first end of the housing (as recited in Claim 4), column 6, lines 59-64;**
- **the button causing the power source to activate the light source as long as the pressure is applied to the button (as recited in Claim 4), column 6, lines 59-64;**
- **the resilient fastener being an elastic band (as recited in claims 5 and 12), column 7, lines 45-52;**
- **the housing being translucent (as recited in Claim 8), column 5, lines 33 and 34;**
- **a button (as recited in Claim 9), Figure 2, reference number 22;**
- **the button being located near one end of the housing (as recited in Claim 9), as seen in Figure 2;**

- **the button closing an open electrical circuit to activate said light source (as recited in Claim 9), column 6, lines 59-64;**
- **the button closing the circuit when pressed (as recited in Claim 9), column 6, lines 59-64.**

The limitations recited by method claims 15-17 were considered as inherently disclosed by the structural elements of the patented apparatus of MAYFARTH, as detailed above.

6. Claims 1, 6, 9 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by RADLEY (U.S. Pat. 914,975).

RADLEY discloses an illumination device having:

- **a housing (as recited in claims 1 and 9), as seen in Figure 1;**
- **a light source (as recited in claims 1 and 9), Figure 4, reference character I;**
- **the light source being located within the housing (as recited in claims 1 and 9), as seen in Figure 4 ;**
- **a power source (as recited in claims 1 and 9), Figure 4, reference character B;**
- **the power source being located within the housing (as recited in claims 1 and 9), as seen in Figure 1;**

- **means for intermittently activating the light source (as recited in claims 1 and 9), Figure 3, reference character K;**
- **a resilient fastener (as recited in claims 1 and 9), Figure 4, reference character G;**
- **the fastener being for removably attaching the housing to a human finger or thumb (as recited in claims 1 and 9), column 1, lines 102-105;**
- **a button (as recited in Claim 9), Figure 3, reference character k;**
- **the button being located near one end of the housing (as recited in Claim 9), as seen in Figure 2;**
- **the button closing an open electrical circuit to activate said light source (as recited in Claim 9), column 2, lines 18-29;**
- **the button closing the circuit when pressed (as recited in Claim 9), column 2, lines 18-29.**

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over MAYFARTH (U.S. Pat. 5,632,548).

MAYFARTH discloses an illumination device having:

- **a housing (as recited in claims 1 and 9), Figure 2, reference number 1;**
- **a light source (as recited in claims 1 and 9), Figure 2, reference number 9a;**
- **the light source being located within the housing (as recited in claims 1 and 9), as seen in Figure 2 ;**
- **a power source (as recited in claims 1 and 9), Figure 2, reference number 11;**
- **the power source being located within the housing (as recited in claims 1 and 9), as seen in Figure 2;**
- **means for intermittently activating the light source (as recited in claims 1 and 9), Figure 2, reference number 22;**
- **a resilient fastener (as recited in claims 1 and 9), Figure 2, reference number 1;**
- **the fastener being for removably attaching the housing to a human finger or thumb (as recited in claims 1 and 9), column 5, lines 30-35;**

- **a button (as recited in Claim 9), Figure 2, reference number 22;**
- **the button being located near one end of the housing (as recited in Claim 9), as seen in Figure 2;**
- **the button closing an open electrical circuit to activate said light source (as recited in Claim 9), column 6, lines 59-64;**
- **the button closing the circuit when pressed (as recited in Claim 9), column 6, lines 59-64.**

MAYFARTH discloses all the limitations of the claims, except the battery being a lithium battery (as recited in claims 3 and 11).

It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to use a lithium battery (as recited in claims 3 and 11) instead of the alkaline or NiCd batteries disclosed by MAYFARTH, since the Examiner takes Official Notice that the use of lithium batteries is old and well known in the illumination art. One would have been motivated since lithium batteries are recognized to have many desirable advantages, including reduced size, high efficiency, and high power production, over other batteries.

8. Claims 7, 14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over MAYFARTH (U.S. Pat. 5,632,548).

MAYFARTH discloses an illumination device having:

- **a housing (as recited in claims 1 and 9), Figure 2, reference number 1;**
- **a light source (as recited in claims 1 and 9), Figure 2, reference number 9a;**
- **the light source being located within the housing (as recited in claims 1 and 9), as seen in Figure 2 ;**
- **a power source (as recited in claims 1 and 9), Figure 2, reference number 11;**
- **the power source being located within the housing (as recited in claims 1 and 9), as seen in Figure 2;**
- **means for intermittently activating the light source (as recited in claims 1 and 9), Figure 2, reference number 22;**
- **a resilient fastener (as recited in claims 1 and 9), Figure 2, reference number 1;**
- **the fastener being for removably attaching the housing to a human finger or thumb (as recited in claims 1 and 9), column 5, lines 30-35;**
- **a button (as recited in Claim 9), Figure 2, reference number 22;**

- **the button being located near one end of the housing (as recited in Claim 9), as seen in Figure 2;**
- **the button closing an open electrical circuit to activate said light source (as recited in Claim 9), column 6, lines 59-64;**
- **the button closing the circuit when pressed (as recited in Claim 9), column 6, lines 59-64.**

MAYFARTH discloses all the limitations of the claims, except the housing being flesh-colored (as recited in claims 7, 14 and 18).

It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to have a flesh-colored housing (as recited in claims 7, 14 and 18) to have such housing resemble a human finger as closely as possible, as per the teachings of MAYFARTH (see column 4, lines 52-56).

Relevant Prior Art

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Clanton et al. (U.S. Pat. 4,422,131), **Flohr** (U.S. Des. Pat. 297,172), **Segeren** (U.S. Des. Pat. 300,260), **Prince** (U.S. Pat. 5,086,378), **Lambert** (U.S. Pat. 5,124,892), **Koenen et al.** (U.S. Pat. 5,283,722), **Hoffman** (U.S. Pat. 5,450,293) and **Koenen**

Myers et al. (U.S. Pat. 5,535,105) disclose illumination devices for being removably attached to a human finger or thumb by means of resilient members.

Oberlander (U.S. Pat. 5,193,896), **Smyly, Jr.** (U.S. Pat. 5,448,458), **Dion** (U.S. Pat. 5,934,784) and **Gobbell** (U.S. Pat. 6,663,256) disclose illumination devices having resilient members for attaching such devices to a user.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Negron whose telephone number is (571) 272-2376. The examiner can normally be reached on Monday-Friday from 9:00 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea, can be reached on (571) 272-2378. The facsimile machine number for the Art Group is (703) 872-9306.


11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, go to <http://pair-direct.uspto.gov>. Should you

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have questions on access to Private PAIR system, contact the Electronic Business Center (EBC) toll-free at 866-217-9197.


Inr

February 19, 2005


JOHN ANTHONY WARD
PRIMARY EXAMINER